

By: Truman G. Galt

S.B. No. 648

A BILL TO BE ENTITLED

AN ACT

relating to limiting the authority of the Coastal Coordination Council to review the actions of agencies and subdivisions, defining the scope of the coastal management program, and adding representatives of the State Soil and Water Conservation Board and the Texas Water Development Board to the Coastal Coordination Council.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter F, Chapter 33, Natural Resources Code, is amended to read as follows:

SUBCHAPTER F. COASTAL COORDINATION

Sec. 33.201. SHORT TITLE. This subchapter may be cited as the Coastal Coordination Act.

Sec. 33.202. POLICY. (a) It is declared to be the policy of this state to make more effective and efficient use of public funds and provide for more effective and efficient management of coastal natural resource areas, and to better serve the people of Texas by:

(1) continually reviewing the principal coastal problems of state concern, coordinating the performance of agencies, subdivisions, and programs affecting coastal natural resource areas, and [the] coordinating the measures required to resolve identified coastal problems; and

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1 (2) making all coastal management processes more
2 visible, accessible, coherent, consistent, and accountable to the
3 people of Texas.

4 (b) It is declared to be the policy of this state that the
5 chief executive officer of the state should represent the State of
6 Texas in discussions and negotiations with the federal government
7 with regard to the effect of federal actions on the coastal
8 programs and policies of the State of Texas.

9 Sec. 33.203. DEFINITIONS. In this subchapter:

10 (1) "Coastal natural resource areas" means coastal
11 barriers, coastal historic areas, coastal parks, wildlife
12 management areas, preserves, coastal shore areas, coastal wetlands,
13 critical dune areas, critical erosion areas, Gulf beaches, hard
14 substrate reefs, oyster reefs, private submerged lands, special
15 hazard areas, state submerged lands, submerged aquatic vegetation,
16 tidal sand and mud flats, waters of the open Gulf of Mexico, and
17 waters under tidal influence [~~areas--designated--in-the-coastal~~
18 ~~management-plan-as-requiring-special-management,--including--coastal~~
19 ~~public---submerged---lands,---public--beaches,--washover--areas--on~~
20 ~~peninsulas,--mainland-shorelines,--and--barrier--islands,--protected~~
21 ~~sand--dune--complexes--on--the--Gulf-shoreline,--and-parks,--historic~~
22 ~~areas,--wildlife-refuges,--preserves,--and-other-such-natural-resource~~
23 ~~management-areas~~] located within the coastal area [~~and--designated~~
24 ~~in-the-coastal-management-plan~~].

25 (2) "Critical areas" means coastal wetlands, oyster

1 reefs, hard substrate reefs, submerged aquatic vegetation, and
2 tidal sand and mud flats.

3 (3) "Council" means the Coastal Coordination Council,
4 which shall consist of the commissioner, the attorney general, the
5 chair of the Parks and Wildlife Commission, the chair of the Texas
6 Natural Resource Conservation [Water] Commission, the chair of the
7 Texas Water Development Board, a member of the State Soil and Water
8 Conservation Board, a member of the Railroad Commission of Texas,
9 and one city or county elected official and one resident from the
10 coastal area appointed by the governor for two-year terms.

11 (4) [+3+] "Agency or subdivision" means any agency,
12 department, board, commission, subdivision, body politic, or other
13 government entity or unit.

14 (5) [+4+] "Coastal management program [plan]" means an
15 ongoing, comprehensive program for coordinating agencies' and
16 subdivisions' management of activities that may adversely affect
17 coastal natural resource areas for the purpose of continually
18 improving management of those activities as provided in Section
19 33.202 [the--plan--as--developed-by-the-commissioner-under-Section
20 33-052] of this code.

21 Sec. 33.204. ADMINISTRATION OF COASTAL MANAGEMENT PROGRAM
22 [ADOPTION-OF-COASTAL-GOALS-AND-POLICIES;-REVIEW]. (a) The council
23 shall promulgate rules adopting the goals and policies of the
24 coastal management program. The goals and policies may not require
25 an agency or subdivision to perform an action which would exceed

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1 the constitutional or statutory authority of the agency or
2 subdivision. The council shall study, regularly request public
3 comment on, and coordinate responses to [~~plan-and-make-studies--of~~]
4 problems and issues affecting the management of coastal natural
5 resource areas as provided in the program [~~plan~~].

6 (b) The council shall meet once in each calendar quarter.
7 The commissioner is chair of the council and may convene special
8 meetings at other times. For each matter to be reviewed by the
9 council under Section 33.205 of this code, the governor shall
10 designate a local elected official from a county directly affected
11 by the matter under review. The local official shall serve as a
12 nonvoting participant on the council for purposes of reviewing and
13 acting on that matter only.

14 (c) In conducting reviews under Section 33.205 of this code,
15 the council shall receive and consider the oral or written
16 testimony of any person regarding the goals and policies of the
17 coastal management program [~~plan~~]. The council may reasonably limit
18 the length and format of the testimony and the time at which it
19 will be received. Notice of the period during which the testimony
20 will be received shall be published in the Texas Register and in a
21 newspaper of general circulation in each county directly affected
22 by the matter under review before the commencement of that period.
23 The council shall consider only the record before the agency or
24 subdivision involved in the matter under review, the agency's or

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1 subdivision's findings, applicable laws and rules, any additional
2 information provided by that agency or subdivision, and public
3 testimony under this subsection, provided that if the agency or
4 subdivision did not hold a hearing, make a record, or make
5 findings, the council may hold a hearing and make findings
6 necessary to a complete and thorough review.

7 (d) The land office shall assist the council in carrying out
8 its duties. The council members shall not receive compensation for
9 services but may receive reimbursement for actual and necessary
10 expenses. The land office shall, in coordination with other
11 agencies and subdivisions, prepare an annual report reviewing the
12 effectiveness of the coastal management program. The land office
13 shall submit each report to the council for approval and shall
14 submit each of the previous two years' reports to the legislature
15 prior to the beginning of each legislative session.

16 Sec. 33.205. CONSISTENCY WITH GOALS AND POLICIES;
17 PREREQUISITES [STANDARDS,--SUBMISSION] FOR REVIEW. (a) When
18 proposing or adopting any of the rules listed in Subsection (c) of
19 this section or taking any of the individual actions listed in
20 Subsection (d) of this section, [All-actions-taken-or-authorized
21 by] state agencies and subdivisions [that--may--adversely--affect
22 coastal---natural---resource---areas,---including---discharges--and
23 withdrawals-that-may-significantly-affect-water--quality--in--state
24 waters--subject-to-tidal-influence,] must comply with the goals and
25 policies of the coastal management program [plan].

1 (b) State [~~In-developing-rules-and--policies--applicable--in~~
2 ~~coastal-areas-and-performing-actions-subject-to-the-requirements-of~~
3 ~~this--subsection,--state]~~ agencies and subdivisions subject to the
4 requirements of Subsection (a) of this section shall take into
5 account the goals and policies of the coastal management program
6 and shall certify that the rule or action is consistent with those
7 goals and policies [~~plan~~].

8 (c) Agencies must comply with Subsection (a) of this section
9 when proposing or adopting one of the following rules or amendments
10 to rules:

11 (1) a rule of the General Land Office governing the
12 prevention of, response to, and remediation of coastal oil spills;

13 (2) a rule of the Texas Natural Resource Conservation
14 Commission governing:

15 (A) emissions of air pollutants;

16 (B) on-site sewage disposal systems; and

17 (C) underground storage tanks;

18 (3) a rule of the State Soil and Water Conservation
19 Board governing agricultural and silvicultural nonpoint source
20 pollution;

21 (4) a rule governing individual actions listed in
22 Subsection (d) of this section.

23 (d) Agencies and subdivisions must comply with Subsection
24 (a) of this section when taking one of the following actions:

25 (1) an action of the General Land Office, the School

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1 Land Board, or the boards for lease of state-owned lands
2 concerning:

3 (A) a mineral lease plan of operations;

4 (B) a geophysical and geochemical permit;

5 (C) a coastal easement;

6 (D) miscellaneous easements;

7 (E) a surface lease;

8 (F) a coastal lease;

9 (G) a structure registration;

10 (H) a cabin permit;

11 (I) a navigation district lease;

12 (J) certification of a local government beach

13 access and dune protection plan; or

14 (K) approval of a wetland mitigation bank;

15 (2) an action of the Public Utility Commission of
16 Texas concerning a certificate of convenience and necessity;

17 (3) an action of the Railroad Commission of Texas
18 concerning:

19 (A) a wastewater discharge permit;

20 (B) a waste disposal or storage pit permit; or

21 (C) certification of a federal permit for
22 dredging and filling activities;

23 (4) an action of the Texas Department of
24 Transportation concerning:

25 (A) acquisition of dredged material disposal

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1 sites for the Gulf Intracoastal Waterway and for channel expansion,
2 relocation, or alteration; or

3 (B) transportation planning, construction, and
4 maintenance;

5 (5) an action of the Texas Historical Commission or
6 the Texas Antiquities Committee concerning:

7 (A) a permit for destruction, alteration, or
8 taking of state archaeological landmarks; or

9 (B) a review of federal undertakings affecting
10 historic sites;

11 (6) an action of the Texas Natural Resource
12 Conservation Commission concerning:

13 (A) a municipal and industrial wastewater
14 discharge permit;

15 (B) a wastewater discharge permit for a new
16 concentrated animal feeding operation within one mile of a critical
17 area or coastal waters;

18 (C) a water rights permit over 2,500 acre-feet
19 per year inside the coastal area or over 5,000 acre-feet per year
20 outside the coastal area;

21 (D) a solid and hazardous waste treatment,
22 storage, and disposal permit;

23 (E) creation of a special-purpose district or
24 approval of bonds for infrastructure on a coastal barrier;

25 (F) approval of levee improvements or another

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1 flood control project;

2 (G) certification of a federal permit for
3 dredging and filling activities; or

4 (H) a declaration of emergency and request for
5 an emergency release of water;

6 (7) an action of the Parks and Wildlife Department
7 concerning:

8 (A) a permit or lease for transplanting or
9 harvesting oysters;

10 (B) a permit for taking, transporting, or
11 possessing threatened or endangered species;

12 (C) a permit for disturbing marl, sand, shell,
13 or gravel on state-owned lands; or

14 (D) approval of development in state parks,
15 wildlife management areas, and preserves; or

16 (8) an action of a subdivision concerning:

17 (A) a dune protection permit; or

18 (B) a beachfront construction certificate,
19 provided that the provisions of this subchapter shall apply to an
20 action listed in this subdivision only if they authorize:

21 (i) construction activity located within
22 the first 200 feet landward of the line of vegetation which results
23 in the disturbance of more than 7,000 square feet of dunes or dune
24 vegetation;

25 (ii) construction activity which results

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1 in the disturbance of more than 7,500 cubic yards of dunes;

2 (iii) any coastal shore protection project
3 undertaken pursuant to Chapter 15, Title 31, Texas Administrative
4 Code, or within 200 feet landward of the line of vegetation
5 affecting more than 500 linear feet of beach on the shore of the
6 Gulf of Mexico; or

7 (iv) a closure, relocation, or reduction
8 in existing public beach access or public beach access designated
9 in an approved beach access plan, other than a short-term closure,
10 relocation, or reduction.

11 (e) An action to renew, amend, or modify an existing permit,
12 certificate, lease, easement, approval, or other form of
13 authorization shall not be considered an action subject to the
14 coastal management program if the action is taken pursuant to a
15 rule that the council has certified as consistent under Subsection
16 (h) of this section and:

17 (1) for wastewater discharge permits, if the action is
18 not a major permit modification that would increase pollutant loads
19 to coastal waters or would result in relocation of an outfall to a
20 critical area;

21 (2) for solid, hazardous, or nonhazardous waste
22 permits, if the action is not a Class III modification as defined
23 in Texas Natural Resource Conservation Commission rules; or

24 (3) for any other action, if the action only extends
25 the time period of the existing authorization without authorizing

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1 new or additional work or activities or is not otherwise directly
2 relevant to the goals and policies of the coastal management
3 program.

4 (f) [(b)] The council shall review any action listed in
5 Subsection (d) of this section if:

6 (1) the agency or subdivision has taken the action;

7 (2) a person eligible to file a request for referral
8 under Subdivision (4) of this subsection raises issues regarding
9 the action's consistency with the goals and policies of the coastal
10 management program during the agency's or subdivision's
11 consideration of the action;

12 (3) consistency review thresholds for the agency are
13 in effect under Subsection (h) of this section and:

14 (A) the action is one for which a formal hearing
15 under Chapter 2001, Government Code (Administrative Procedure Act),
16 was available to contest the agency's determination of consistency
17 with the goals and policies of the coastal management program for:

18 (i) an action exceeding the applicable
19 thresholds, if the agency's consistency determination was contested
20 in a formal hearing or an alternative dispute resolution process;
21 or

22 (ii) an action not exceeding the
23 applicable thresholds, if the action may adversely affect a
24 critical area, critical dune area, coastal park, wildlife
25 management area, or preserve, or beach on the shore of the Gulf of

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1 Mexico, and a state agency contested the agency's consistency
2 determination in a formal hearing; or

3 (B) the action is one for which a formal hearing
4 under Chapter 2001, Government Code (Administrative Procedure Act),
5 was not available to contest the agency's determination of
6 consistency with the goals and policies of the coastal management
7 program and the action exceeds the applicable thresholds;

8 (4) a request for referral is filed with the council
9 by a council member, a party to the agency's formal hearing or
10 alternative dispute resolution process, a person who participated
11 in an agency's formal hearing as allowed by agency rules in a
12 capacity other than as a witness, or, for an action for which a
13 formal hearing under Chapter 2001, Government Code (Administrative
14 Procedure Act), was not available, a person who filed written
15 comments with the agency before the action was taken; or

16 (5) [subject--to-the-requirements-of-Subsection-(a)-of
17 this-section-that-] the commissioner or [submits-to-the-council-for
18 review.--The--council--shall--review--any--action--subject--to--the
19 requirements-of-Subsection-(a)-of-this-section-that-is-submitted-to
20 the--council-by] any three regular members of the council refer the
21 action to the council[-

22 [(c)--An-action-must-be-referred-to-the--council] within 30
23 days of the date the agency or subdivision took the action [it
24 becomes-final].

25 (g) The council must consider and act on a referral [the

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1 matter] within 70 days of the date the agency or subdivision took
2 the action [90-days-of-referral].

3 (h) The council shall in its procedural rules establish a
4 process by which an agency may submit its rules governing actions
5 listed in Subsection (d) of this section to the council for review
6 and certification for consistency with the goals and policies of
7 the coastal management program. The process shall provide that an
8 agency may also submit to the council consistency review thresholds
9 for those actions. On the council's certification that the
10 agency's rules are consistent and its approval of the agency's
11 consistency review thresholds, the agency's actions below the
12 thresholds shall be presumed to be consistent with the goals and
13 policies of the coastal management program and shall not be subject
14 to council review, remand, or reversal, except for those actions
15 described in Subsection (f)(3)(B) of this section. The council
16 shall also include in its procedural rules a provision whereby the
17 council may revoke its certification of the consistency of an
18 agency's rules if the agency fails to implement, enforce, or adhere
19 to the goals and policies of the coastal management program. Prior
20 to the certification of rules and approval of thresholds and
21 subsequent to any revocation of such certification or approval, all
22 the agency's actions listed in Subsection (d) of this section shall
23 be subject to council referral, review, remand, and reversal.

24 Sec. 33.206. COUNCIL ACTION. (a) After reviewing an action
25 of a state agency or subdivision, the council may affirm or protest

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1 the action of the state agency or subdivision.

2 (b) If the council protests the action, the council shall
3 remand the matter to the state agency or subdivision. The remand
4 shall include findings on inconsistencies with the goals and
5 policies of the coastal management program [plan] and may include
6 recommendations of the council. On remand, the state agency or
7 subdivision shall modify or amend the action to make it consistent
8 with the goals and policies of the coastal management program
9 [plan]. Should the agency or subdivision decide not to amend its
10 action as recommended by the council, it shall notify the council
11 of that decision. The council may provide in its remand that the
12 agency or subdivision action will be automatically reversed without
13 further council action if the agency or subdivision does not
14 reconsider its action in light of the council's recommendations
15 within 90 days after taking the action.

16 (c) The state agency's or subdivision's action on remand is
17 subject to review by the council as provided in Section 33.205 of
18 this code. The only basis on which the council may reverse a
19 decision of an agency or subdivision is that the action is
20 inconsistent with the goals and policies of the coastal management
21 program [plan]. The council's decision to reverse an action
22 renders the action void.

23 (d) Pending council review of an individual action, no
24 person may conduct activities authorized by the action that would
25 irreparably alter or damage coastal natural resource areas

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1 identified in the goals and policies of the coastal management
2 program that are applicable to that action, except as allowed by
3 Section 2001.054, Government Code.

4 (e) The council shall not apply the goals and policies of
5 the coastal management program in a manner which would result in
6 the taking, damage, or destruction of property, without adequate
7 compensation, by the council.

8 (f) The council shall review any federal action the
9 commissioner submits to the council for review. If, after review,
10 the council finds a federal action does not comply with goals and
11 policies of the coastal management program [plan], the council may
12 refer the matter to any federal official authorized to review or
13 act on the matter and may pursue resolution of the matter with the
14 federal official.

15 Sec. 33.207. JUDICIAL REVIEW. A person aggrieved by a final
16 action of the council may appeal to a district court under Chapter
17 2001, Government Code ([the] Administrative Procedure [and--Texas
18 Register] Act [~~Article-6252-13a7-Vernon's-Texas-Civil-Statutes~~]).

19 Sec. 33.208. ENFORCEMENT. The attorney general, at the
20 request of the council, shall file in a district court of Travis
21 County or in the county in which the violation occurs a suit to
22 enforce this subchapter or the rules adopted under this subchapter
23 against an agency or subdivision to prevent or remedy a violation
24 or failure to comply with this subchapter or those rules.

25 Sec. 33.209. VOLUNTARY SPECIAL AREA MANAGEMENT PLANS.

____.B. No. ____

1 (a) The council may adopt rules containing goals and policies
2 applicable only to a special area of the coast. The rules shall
3 constitute the goals and policies of the coastal management program
4 for that special area in place of the generally applicable goals
5 and policies. The boundaries of any such area shall be included in
6 the rules.

7 (b) Rules applicable to a special area under this section
8 shall not apply to any real property whose owner does not expressly
9 and affirmatively consent in writing to the application of those
10 rules to the owner's real property.

11 SECTION 2. Sections 33.052, 33.053, 33.054, and 33.055,
12 Natural Resources Code, are repealed.

13 SECTION 3. The importance of this legislation and the
14 crowded condition of the calendars in both houses create an
15 emergency and an imperative public necessity that the
16 constitutional rule requiring bills to be read on three several
17 days in each house be suspended, and this rule is hereby suspended,
18 and that this Act take effect and be in force from and after its
19 passage, and it is so enacted.

BILL ANALYSIS

Senate Research Center

S.B. 648
By: Truan
Natural Resources
03-16-95
As Filed

BACKGROUND

The Coastal Coordination Council (CCC) governs the Coastal Management Plan. The CCC determined that its authority should be limited to the issues necessary to receive federal approval of the Texas plan which will give the state the authority to override federal actions on the Texas coast. This will qualify the state to receive \$2.4 million in federal grants.

PURPOSE

As proposed, S.B. 648 regulates the authority of the Coastal Coordination Council to review the actions of agencies and subdivisions, and adds members of the State Soil and Water Conservation Board and the Texas Water Development Board to the council. Amends the purpose of the coastal management program.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is granted to the Coastal Coordination Council under SECTION 1 (Section 33.209(a), Natural Resource Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Chapter 33F, Natural Resources Code, as follows:

SUBCHAPTER F. COASTAL COORDINATION

Sec. 33.201. Makes no change.

Sec. 33.202. Makes a nonsubstantive change.

Sec. 33.203. DEFINITIONS. Redefines "coastal natural resource area" and "council." Defines "critical areas" and "coastal management program."

Sec. 33.204. New heading: ADMINISTRATION OF COASTAL MANAGEMENT PROGRAM. (a) Requires the Coastal Coordination Council (council) to promulgate rules adopting the goals and policies of the coastal management program (program). Prohibits the goals and policies from requiring an agency or subdivision to perform an action beyond the agency's or subdivision's constitutional or statutory authority. Requires the council to study, request public input on, and coordinate responses to problems and issues affecting coastal natural resource area management as provided in the coastal management program (program), rather than the coastal management plan (plan).

(b) Makes no change.

(c) Makes a conforming change.

(d) Prohibits council members from receiving compensation for services, but may receive expense reimbursements. Requires the land office to prepare an annual report reviewing the effectiveness of the program with other agencies and subdivisions (agencies). Requires the land office to submit each report to the council for approval, and to submit reports from the previous two years to the legislature prior to each legislative session.

Sec. 33.205. New heading: CONSISTENCY WITH GOALS AND POLICIES; PREREQUISITES FOR REVIEW. (a) Requires any rules adopted under Subsection (c) or actions taken under Subsection (d) to comply with the goals and policies of the program.

(b) Requires state agencies subject to the requirements of Subsection (a) of this section to take into account the goals and policies of the program and to certify that the rule or action is consistent with those goals and policies.

(c) Requires agencies to comply with Subsection (a) of this section when proposing or adopting certain rules or amendments to rules.

(d) Requires agencies to comply with Subsection (a) of this section when taking certain actions.

(e) Prohibits an action to renew, amend, or modify an existing permit certificate, lease, easement, approval, or other form of authorization from being considered an action subject to the program if the action is taken pursuant to a rule that the council has certified as consistent with Subsection (h) and specified permits or actions.

(f) Requires the council to review any action listed in Subsection (d) of this section if an action is taken and the action is being referred, contested, or reviewed.

(g) Requires the council to consider an act on a referral within 70 days of the date the agency took the action, rather than within 90 days of referral.

(h) Requires the council to establish in its procedural rules a process by which an agency may submit its rules governing action listed in Subsection (d) of this section to the council for review and certification of consistency with the goals and policies of the program. Requires the process to provide that an agency may also submit consistency review thresholds for those actions to the council. Requires the agency's actions below the threshold to be presumed to be consistent with the goals and policies of the program on the council's certification that the agency's rules are consistent with its approval of the agency's consistency review thresholds. Prohibits these same actions from being subject to council review, remand, or reversal except for actions described in Subsection (f)(3)(B). Requires the council to include in its procedural rules a provision allowing the council to revoke its certification of the consistency of an agency's rules if the agency fails to implement, enforce, or adhere to the goals and policies of the program. Requires all the agency's actions listed in Subsection (d) to be subject to council referral, review, remand, and reversal prior to rule certification, threshold approval and subsequent to any revocation of such certification or approval.

Sec. 33.206. COUNCIL ACTION. (a) Makes no change.

(b) Authorizes the council to provide in its remand that the agency action will be automatically reversed without further council action in light of the council's recommendations within 90 days after taking the action. Makes conforming changes.

(c) Provides that the council's decision to reverse an action renders the action void. Makes a conforming change.

(d) Prohibits any person from conducting activities authorized by the action that would alter or damage coastal natural resource areas that are identified in the goals and policies of the program that are applicable to that action pending council review of an individual action except as allowed by Section 2001.054, Government Code.

(e) Prohibits the council from applying the goals and policies of the program in the manner which would result in the taking, damaging, or destructing property, without adequate compensation by the council.

(f) Makes a conforming change.

Sec. 33.207. Makes a nonsubstantive change.

Sec. 33.208. ENFORCEMENT. Requires the attorney general, at the request of the council, to file, in a district court of Travis County or in the county in which the violation occurs, a suit to enforce this subchapter or rules adopted under this subchapter against an agency or subdivision to prevent or remedy a violation or failure to comply with this chapter or those rules.

Sec. 33.209. VOLUNTARY SPECIAL AREA MANAGEMENT PLANS. (a) Authorizes the council to adopt rules containing goals and policies applicable only to a special area of the coast. Requires the rules to constitute the goals and policies of the program for that special area in place of the generally applicable goals and policies. Requires the boundaries of the area to be included in the rules.

(b) Prohibits rules applicable to a special area from applying to any real property without the owner's express and affirmative consent in writing to the application of those rules to the owner's real property.

SECTION 2. Repealer: Sections 33.052, 33.053, 33.054, and 33.055, Chapter 33C, Title 2, Natural Resources Code (Development of Management Program, Elements of Management Program, Review and Amendment of Management Program, and Public Hearings to Consider Management Program).

SECTION 3. Emergency clause.
Effective date: upon passage.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

74th Regular Session

March 27, 1995

TO: Honorable Bill Sims, Chair
Committee on Natural Resources
Senate
Austin, Texas

IN RE: Senate Bill No. 648
By: Truan

FROM: John Keel, Director

In response to your request for a Fiscal Note on Senate Bill No. 648 (Relating to limiting the authority of the Coastal Coordination Council to review the actions of agencies and subdivisions, defining the scope of the coastal management program, and adding representatives of the State Soil and Water Conservation Board and the Texas Water Development Board to the Coastal Coordination Council.) this office has determined the following:

The bill would amend Subchapter F, Chapter 33, Natural Resources code, to clarify the original Coastal Coordination Act and incorporate into statute the procedural limitations adopted as rules by the Coastal Coordination Council (CCC). The bill would clarify the meaning of "coastal natural resource areas" by including an exclusive list of those areas; add the chairperson of the Water Development Board and a member of the Soil and Water Conservation Board to the CCC; prohibit any council goals or rules from requiring an agency or subdivision to perform actions outside of the agency's authority; include an exclusive list of agency rules or actions that might adversely affect coastal natural resource areas that must be consistent with the coastal management program and specify when rules and actions are subject to consistency review; and would clarify procedures for CCC review of those actions.

Under this bill, the council would establish procedures for review of rules and actions above an established threshold, with potential major impact on the coast; prohibit the CCC from taking actions that would constitute an unconstitutional deprivation of property rights; and would provide that the attorney general could sue an agency for noncompliance with goals and policies of the coastal management program. .

The General Land Office believes that implementation of the bill could result in cost savings if interagency disputes could be resolved through CCC action rather than litigation; however, it was not able to estimate these potential savings. The Railroad Commission indicates that implementation of the bill would have no fiscal implications for that agency. The Texas Natural Resource Conservation Commission indicates that the bill would require implementation of a process to evaluate and certify that agency rules and permit actions are consistent with the CCC goals, policies, and rules and would require additional personnel. However, it is assumed that any costs related to such a process could be absorbed within the agency's existing resources.

No significant fiscal implication to the State is anticipated.

No fiscal implication to units of local government is anticipated.

Source: General Land Office and Veterans' Land Board, Railroad Commission,
Natural Resources Conservation Commission
LBB Staff: JK, KW, DF

A BILL TO BE ENTITLED

AN ACT: relating to limiting the authority of the Coastal Coordination Council to review the actions of agencies and subdivisions, defining the scope of the coastal management program, and adding representatives of the State Soil and Water Conservation Board and the Texas Water Development Board to the Coastal Coordination Council.

FEB 20 1995

Filed with the Secretary of the Senate

FEB 20 1995

Read and referred to Committee on

NATURAL RESOURCES

Reported favorably

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by:

{ unanimous consent

{ ____ yeas, ____ nays

Read second time, _____, and ordered engrossed by:

{ unanimous consent

{ a viva voce vote

{ ____ yeas, ____ nays

Senate and Constitutional 3 Day Rule suspended by a vote of ____ yeas, ____ nays.

Read third time, _____, and passed by:

{ A viva voce vote

{ ____ yeas, ____ nays

SECRETARY OF THE SENATE

OTHER ACTION:

Engrossed

Sent to House

Engrossing Clerk

Received from the Senate

Read first time and referred to Committee on

Reported ____ favorably (as amended) (as substituted)

Sent to Committee on (Calendars) (Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote) (record vote of ____ yeas, ____ nays, ____ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend) by a vote of ____ yeas, ____ nays, ____ present, not voting.

Read third time (amended); finally passed (failed to pass) by a (non-record vote) (record vote of ____ yeas, ____ nays, ____ present, not voting)

Returned to Senate.

Returned from House without amendment.

Returned from House with ____ amendments.

Concurred in House amendments by a viva voce vote ____ yeas, ____ nays.

CHIEF CLERK OF THE HOUSE

_____ Refused to concur in House amendments and requested the appointment of a Conference Committee to adjust the differences.

_____ Senate conferees instructed.

_____ Senate conferees appointed: _____, Chairman; _____
_____, _____, and _____

_____ House granted Senate request. House conferees appointed: _____, Chairman;
_____, _____, _____.

_____ Conference Committee Report read and filed with the Secretary of the Senate.

_____ Conference Committee Report adopted on the part of the House by: _____

{ a viva voce vote
_____ yeas, _____ nays

_____ Conference Committee Report adopted on the part of the Senate by:

{ a viva voce vote
_____ yeas, _____ nays

OTHER ACTION:

_____ Recommitted to Conference Committee

_____ Conferees discharged.

_____ Conference Committee Report failed of adoption by: _____

{ a viva voce vote
_____ yeas, _____ nays